

March 1, 1999

**DURHAM, NORTH CAROLINA
MONDAY, MARCH 1, 1999
7:30 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chamber at City Hall with the following members present: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Absent: None.

Also present: City Manager P. Lamont Ewell, City Attorney Henry Blinder, City Clerk Margaret M. Bowers and Deputy City Clerk D. Ann Gray.

Mayor Tennyson called the meeting to order.

Council Member Cox thanked the Durham Delegation for attending the recent Legislative Breakfast.

The Mayor asked for priority items from the City Manager, City Attorney and City Clerk.

City Manager Ewell recognized Dr. Leroy Walker; Messrs. Joe Freddso and Jody Lister representatives of the Special Olympics Committee for comments on the upcoming event. City Manager Ewell informed the council that an item will be placed on the upcoming Finance Committee agenda regarding the costs of the Special Olympics.

There were no priority items from the City Attorney and City Clerk.

Mayor Tennyson asked if any council member(s) or citizen(s) wanted to pull any item(s) from the Consent Agenda for discussion later in the meeting. The following items were pulled from the Consent Agenda: Items 6; 15; and 20.

MOTION by Council Member Larson seconded by Council Member Miller to approve the Consent Agenda as amended was approved at 8:02 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

[CONSENT AGENDA]

SUBJECT: SETTING PUBLIC HEARING ON USE OF ECONOMIC DEVELOPMENT

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**INVESTMENT FUNDS FOR RENOVATION AT 212 WEST MAIN STREET
-TEERMARK ASSOCIATES**

MOTION by Council Member Larson seconded by Council Member Miller to set a public hearing on Monday, March 15, 1999, regarding the use of up to \$55,000.00 in Economic Development Investment Funds for TeerMark Associates for the renovation of the property at 212 West Main Street in Downtown Durham was approved at 8:02 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

SUBJECT: YOUTH EMPLOYMENT COMPETENCIES PROGRAM - DURHAM PUBLIC SCHOOLS

MOTION by Council Member Larson seconded by Council Member Miller to authorize the City Manager to execute a contract with Durham Public Schools for the provision of employment and training services to at-risk youth, at a maximum total cost of \$43,646.00 was approved at 8:02 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

SUBJECT: STATE OF NORTH CAROLINA DEVELOPMENT ZONE PROPOSAL

MOTION by Council Member Larson seconded by Council Member Miller to authorize the City Manager to submit a proposal requesting a part of Durham to be considered a designated Development Zone by the North Carolina Secretary of Commerce for the purpose of qualifying for State economic incentives in economically distressed area was approved at 8:02 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

SUBJECT: HEATING FACILITIES PROVISIONS OF THE MINIMUM HOUSING CODE

MOTION by Council Member Larson seconded by Council Member Miller to receive a report from the Administration concerning heating facilities provisions of the Minimum Housing Code was approved at 8:02 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller.

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Noes: None. Absent: None.

**SUBJECT: FINAL DOCUMENT APPROVAL - PURCHASE AGREEMENT WITH
UDI/CDC FOR MANGUM COURT**

MOTION by Council Member Larson seconded by Council Member Miller to authorize the City Manager to execute a Purchase Agreement with UDI/CDC for the sale of Mangum Court in the amount of \$113,000.00; to reduce that purchase price in the amount of specific development and site improvement costs that may prove necessary, with such price reductions authorized up to the amount of the contracted purchase price; to execute Construction Loan Agreements to provide UDI/CDC with up to \$150,000.00 at any one time in such loans; to execute related closing documents; and to make minor changes to the Purchase Agreement, Construction Loan Agreements, and related closing documents as are consistent with the City's affordable housing policies was approved at 8:02 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: MUNICIPAL GRANT AGREEMENT - DURHAM COUNTY LITERACY
COUNCIL**

MOTION by Council Member Larson seconded by Council Member Miller to authorize the City Manager to execute a Municipal Grant Agreement with the Durham County Literacy Council in an amount not to exceed \$15,800.00, and to make such minor changes to the Grant Agreement as may be necessary was approved at 8:02 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

SUBJECT: RESOLUTION HONORING A. PAUL NORBY

MOTION by Council Member Larson seconded by Council Member Miller to direct the City Clerk to draft a resolution honoring A. Paul Norby was approved at 8:02 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

SUBJECT: SITE PLAN APPROVAL - AUTUMN RIDGE SUBDIVISION

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MOTION by Council Member Larson seconded by Council Member Miller to approve a site plan for the Autumn Ridge Subdivision, submitted by Duane K. Stewart & Associates, consisting of 138 single family lots on a 69.32 acre tract, zoned PDR-1.99 and located on the northeast corner of Umstead and Bivins Roads (Tax Map 834, Block 01, Parcels 01A and 01B) was approved at 8:02 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

SUBJECT: SITE PLAN APPROVAL - ROXBORO ROAD HOTEL

MOTION by Council Member Larson seconded by Council Member Miller to approve a site plan submitted for the Roxboro Road Hotel, submitted by Ray Patel, consisting of an 18,992 square foot hotel with 55 rooms and 55 parking spaces on a 1.29 acre lot, zoned OI-2 and F/J-B, and located on the east side of Roxboro Road (US 501), north of Crutchfield Street and south of Carver Street. (Tax Map 741-01-002B) was approved at 8:02 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

SUBJECT: RE-AUTHORIZATION OF THE CITY AND COUNTY INTERLOCAL COOPERATION AGREEMENT ON OPEN SPACE AND TRAILS PLANNING

MOTION by Council Member Larson seconded by Council Member Miller to re-authorize the City and County Interlocal Cooperation Agreement on Open Space and Trails Planning creating the Durham Open Space and Trails Commission (DOST) to be effective January 1, 1999 through December 31, 2003 was approved at 8:02 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

SUBJECT: PARKS AND RECREATION MASTER PLAN CONSULTANT CONTRACT - MOORE IACOFANO GOLTSMAN, INC.

MOTION by Council Member Larson seconded by Council Member Miller to authorize the City Manager to enter into a contract with Moore Iacofano Goltsman, Inc. in an amount not to exceed \$167,831.00 for a Parks and Recreation Master Plan; and

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To authorize the City Manager to change the contract such that the City's cost is not increased and the obligation of the contractor is not lessened was approved at 8:02 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

SUBJECT: PROPOSED ACQUISITION FOR MARTIN LUTHER KING, JR. PARKWAY, PROPERTY OF EDNA DUNNEGAN HEIRS, CORNER OF HOPE VALLY ROAD AND ARCHDALE DRIVE

MOTION by Council Member Larson seconded by Council Member Miller to approve the acquisition of property containing approximately 0.209 acres located at the corner of Hope Valley Road and Archdale Drive, Tax Map 415-07-004A, property of Edna Dunnegan Heirs with the total payment being \$25,100.00; and

To find that it is necessary, in the public interest, and for the public use and benefit to begin eminent domain proceedings to obtain all property interest that cannot be acquired through voluntary acquisition was approved at 8:02 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

SUBJECT: PROPOSED EMINENT DOMAIN PROCEEDINGS FOR A CONSTRUCTION EASEMENT ACROSS PROPERTY OF COMMUNITY PROPERTIES, INC. FOR MARTIN LUTHER KING, JR. PARKWAY

MOTION by Council Member Larson seconded by Council Member Miller to find that it is necessary, in the public interest, and for the public use and benefit to begin eminent domain proceedings for a construction easement containing approximately 1,339 square feet, across property of Community Properties, Inc., as shown on the Right-of-Way Acquisition Map for Martin Luther King, Jr. Parkway, dated March 3, 1998, prepared under the supervision of Gordon S. Strout, RLS, Tax Map 415-04-010, and to authorize the City Attorney to initiate proceedings for that purpose, with a deposit into court of \$500.00 as the City's estimate of just compensation was approved at 8:02 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

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SUBJECT: PROPOSED EMINENT DOMAIN PROCEEDINGS FOR A GREENWAY EASEMENT ACROSS PROPERTY OF WOODCROFT COMMUNITY ASSOCIATION, INC. FOR THE THIRD FORK CREEK TRAIL

MOTION by Council Member Larson seconded by Council Member Miller to find that it is necessary, in the public interest, and for the public use and benefit to begin eminent domain proceedings for a greenway easement containing approximately 2.25 acres, across property of Woodcroft Community Association, Inc., as shown on the Final Plat Showing Easement Required for Proposed Third Fork Creek Trail, prepared by Donald F. Greeley, R.L.S., dated March 16, 1998, Tax Map 426-02-003E, and to authorize the City Attorney to initiate proceedings for that purpose, with a deposit into court of \$3,400.00 as the City's estimate of just compensation was approved at 8:02 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

SUBJECT: WATER AND SEWER EXTENSION AGREEMENT WITH ET DEVELOPMENT CORPORATION - FIELDS OF DREAMS LOCATED ON CHELMSFORD DRIVE

MOTION by Council Member Larson seconded by Council Member Miller to authorize the City Manager to enter into a Water and Sewer Extension Agreement with ET Development Corporation to extend City water and sewer to serve Field of Dreams, a 6.98-acre, 12-lot, single-family subdivision located on Chelmsford Drive was approved at 8:02 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

SUBJECT: TELECOMMUNICATIONS LICENSE AGREEMENT - INTERPATH COMMUNICATIONS, INCORPORATED

MOTION by Council Member Larson seconded by Council Member Miller to authorize the City Manager to enter into a Telecommunications License Agreement with Interpath Communications, Incorporated and to make such minor changes to the Agreement as may be necessary was approved at 8:02 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

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SUBJECT: CONTRACT FOR WATER TREATMENT PLANTS HAZARDOUS CHEMICAL RISK ANALYSIS CONSULTANT SERVICES - ENVIRONMENTAL ENGINEERING & TECHNOLOGY, INC.

MOTION by Council Member Larson seconded by Council Member Miller to authorize the City Manager to execute a contract with Environmental Engineering & Technology, Inc. of Newport News, Virginia for preparation of the City's Water Treatment Plants Risk Analysis submittal as required by the US Environmental Protection Agency (EPA) for a total fee not to exceed \$50,085.00 with a provision for authorization by the City Manager of additional work for an amount not to exceed \$25,000.00 was approved at 8:02 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

SUBJECT: QUALSERVE SELF-ASSESSMENT AND PEER REVIEW PARTICIPATING UTILITY AGREEMENT - AMERICAN WATER WORKS ASSOCIATION (AWWA)

MOTION by Council Member Larson seconded by Council Member Miller to authorize the City Manager to enter into an Agreement with the American Water Works Association (AWWA) in an amount not to exceed \$33,500.00 for participation in the QualServe Self-Assessment and Peer Review of Durham's water and sewer utility was approved at 8:02 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

SUBJECT: RESOLUTION MEMORIALIZING DR. JOHNNIE BLUNT MCLESTER

MOTION by Council Member Larson seconded by Council Member Miller to direct the City Clerk to draft a resolution memorializing Dr. Johnnie Blunt McLester was approved at 8:02 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

SUBJECT: RESOLUTION HONORING MR. PETER SKILLERN

MOTION by Council Member Larson seconded by Council Member Miller to direct the City Clerk to draft a resolution honoring Mr. Peter Skillern was approved at 8:02 p.m. by the following vote: Ayes:

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Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

SUBJECT: TWENTY-FIVE MILE PER HOUR SPEED LIMIT - GLENBROOK DRIVE

MOTION by Council Member Larson seconded by Council Member Miller to adopt an ordinance establishing a speed limit of 25 mph on Glenbrook Drive beginning at the north curb line of Club Boulevard, if extended, and extending northward to Hinson Drive was approved at 8:02 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

SUBJECT: NO PARKING - FAYETTEVILLE STREET

MOTION by Council Member Larson seconded by Council Member Miller to adopt an ordinance to repeal Ordinance #11422, adopted May 4, 1998, which established no parking on the west side of Fayetteville Street, beginning at a point 128 feet south of the south curb line of Linwood Avenue, if extended, and extending for a distance of 177 feet southwardly; and

To adopt an ordinance to establish no parking at any time with towing provisions on the west side of Fayetteville Street, beginning at a point 128 feet south of the south curb line of Linwood Avenue, if extended, and extending for a distance of 242 feet southwardly was approved at 8:02 p.m. by the following vote:

Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

SUBJECT: PARKING - RIGSBEE AVENUE

MOTION by Council Member Larson seconded by Council Member Miller to adopt an ordinance to repeal Ordinance #7366, adopted November 16, 1987, which established a twenty-minute parking area on the east side of Rigsbee Avenue in the area beginning at a point 62 feet north of the north curb line of Seminary street, if extended, and extending north from that point for a distance of 65 feet;

To adopt an ordinance to repeal Ordinance #9412, adopted October 7, 1991, which established a one-hour parking area on the east side of Rigsbee Avenue beginning at a point 156 feet north of the

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north curb line of Morgan Street, if extended, and extending north from that point for a distance of 88 feet; and

To adopt an ordinance establishing a two-hour parking zone between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday at the following locations was approved at 8:02 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

- a. On the east side of Rigsbee Avenue in the area beginning at a point 62 feet north of the north curb line of Seminary Street, if extended, and extending north for a distance of 65 feet; and
- b. On the east side of Rigsbee Avenue in the area beginning at a point 156 feet north of the north curb line of Morgan Street, if extended, and extending north for a distance of 88 feet.

SUBJECT: STOP SIGN - DOVER RIDGE SUBDIVISION

MOTION by Council Member Larson seconded by Council Member Miller to adopt an ordinance authorizing the installation of a stop sign on Garden Hills Court at Cheshire Ridge Road, northeast corner was approved at 8:02 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

[GENERAL BUSINESS AGENDA]

SUBJECT: MINIMUM HOUSING CODE

To receive citizens' comments and concerns regarding the current Minimum Housing Code.

Mayor Tennyson opened the public hearing.

MOTION by Council Member Larson seconded by Council Member Miller to continue the public hearing until the April 5, 1999 City Council Meeting was approved at 8:03 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

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Note: It is anticipated that the public hearing will be continued until April 5, 1999.

SUBJECT: DURHAM-RALEIGH ANNEXATION AGREEMENT

To receive citizens' comments regarding an annexation agreement for the City of Durham and the City of Raleigh, pursuant to NCGS 160A, Article 4A, Part 6.

To adopt "An Ordinance Establishing An Annexation Agreement between the City of Durham, North Carolina and the City of Raleigh, North Carolina for the Area between These Two Municipalities in the Vicinity of the Wake/Durham County Line."

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

Jim Middleton, representing Mr. Algie Stevens & son, who own and operate real estate investment properties in Raleigh and Wake County. He noted the Stevens' Family owns about 250 acres of property in an area adjacent to U. S. 70 south of Leesville Road.

He noted most of the property lies in Durham County; however, 45 acres of the property adjacent to the county line which is actually in Wake County. Mr. Middleton stated Mr. Stevens was concerned about some of the issues [the provision of services for water & sewer availability] that would affect the future development of his property. Mr. Middleton noted Mr. Stevens also was concerned that his property would need to be served by a pump station in the future -pump station being in the Durham system.

Mayor Tennyson asked if there were other individuals present wanting to speak. The public hearing was closed.

Paul Norby, of the City/County Planning Department, stated the item on the agenda this evening was not a contract that guarantees whether; how; or when utility services are to be extended into this area. He noted the agreement was only a mutual agreement between the Cities of Durham and Raleigh which establishes an ultimate service area and annexation boundary line.

Katie Kalb, of the Public Works Division, noted if property owner wanted to discuss putting in a pump station and pumping to the closest Durham sewer, the administration would be happy to discuss this.

MOTION by Council Member McKissick seconded by Council Member Larson to receive citizens' comments regarding an annexation

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agreement for the City of Durham and the City of Raleigh, pursuant to NCGS 160A, Article 4A, Part 6; and

To adopt "An Ordinance Establishing An Annexation Agreement between the City of Durham, North Carolina and the City of Raleigh, North Carolina for the Area between These Two Municipalities in the Vicinity of the Wake/Durham County Line" was approved at 8:23 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: ZONING MATTER CASE P98-61, TRIBEK PROPERTIES, INC.,
SOUTHWEST CORNER OF THE INTERSECTION OF NC 54 AND NC
751**

Case: P98-61

Applicant: Tribek Properties, Inc.

Location: 1.7 acres on the southwest corner of the intersection of NC 54 and NC 751; identified as Tax Map 428, Block 2, Lots 7 (partial), 8, and 9 (partial)

Request: Rezoning from OI-1 (Transitional Office and Institutional); (F/J-B) to NC(D) (Neighborhood Commercial with a Development Plan); (F/J-B)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of OI-1 and placing same in and establishing same as NC(D); (F/J-B).

Zoning Committee's Recommendation and Vote: Approval - 4-3

City Manager's Recommendation: Denial

Mayor Tennyson informed the Council that Tribek properties wanted to continue the public hearing on this matter to the April 5, 1999 City Council Meeting. He noted the applicant wanted to work with staff on their proposal.

A motion was made by Council Member Larson to continue the public hearing without further advertising to the April 5, 1999 City Council Meeting. This motion was seconded by Council Member Brown.

SUBSTITUTE MOTION by Council Member Blyth seconded by Mayor Pro Tempore Clement to open the public hearing to allow citizens to speak on this item if they desire **FAILED** at 8:35 p.m. by the following vote: Ayes: Mayor Pro Tempore Clement and Council Members Blyth, Engelhard and Miller. Noes: Mayor Tennyson and

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Council Members Brown, Burnette, Cox, Griffin, Jacobs, Langley, Larson and McKissick. Absent: None.

MOTION by Council Member Larson seconded by Council Member Brown to continue the public hearing without further advertising to the April 5, 1999 City Council Meeting was approved at 8:35 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: Council Member Blyth. Absent: None.

SUBJECT: ZONING MATTER CASE P98-81, THE GENERATION COMPANIES, SOUTH SIDE OF NC HIGHWAY 54

Case: P98-81 (Continued from the February 15, 1999 City Council Meeting)

Applicant: The Generation Companies

Location: 15.4-acre site located on the south side of NC Highway 54, approximately 500 feet west of NC Highway 55

Request: Rezoning from NC (Neighborhood Commercial), R-20 (Residential 20 District), and RD (Rural District); (F/J-B, MTC) to OI-2(D) (General Office and Institutional District with a Development Plan) and RD(D) (Rural District with a Development Plan); (F/J-B, MTC)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of NC, R-20, and RD and placing same in and establishing same as OI-2(D) and RD(D); (F/J-B, MTC).

Zoning Committee's Recommendation and Vote: Approval (7-0)

City Manager's Recommendation: Approval

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

Proponents

Greg Barrow, representing the applicant, noted the following concerns raised at the last City Council Meeting: dedication of the greenway; Martin Rock's concerns regarding drainage; and a connecting driveway and/or pedestrian walkway to adjacent properties.

Opponents

Martin Rock, representing Executive Office Park Association,

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stated they were opposed to the development due to drainage issues. He asked the council to delay this matter until his company could review the applicant's drainage study.

Rebuttal

Greg Barrow stated he met personally with Mr. Rock requesting that they be placed on on their board agenda meeting on February 24th; however, the board meeting was postponed and they were not able to address their concerns. He noted the drainage issues have been resolved and they offered their drainage plans to Mr. Rock for review. He also noted their project drains and flows away from Mr. Rock's property and it was an internal issue on Mr. Rock's property.

Mayor Tennyson closed the public hearing.

At this time, the applicant's civil consultant briefed council on their drainage plan.

Dick Hails, of the City/County Planning Department, noted the applicant's plan did meet the city's standards on stormwater and drainage concerns.

Council Member Blyth stated that the North East Creek floodplain has been impacted by a number of developments built along the area. She stated this proposal would create excess runoff into the creek and based on the Durham Open Space & Trails concerns she felt it was an inappropriate use given the current situation of that environment.

Several Council Members spoke in support of the request noting the use was appropriate and the impact to the environment was minimum.

The applicant briefed council on their stormwater controls; drainage; and groundwater.

Dick Hails, of the City/County Planning Department, stated the administration felt the request from DOS for a dedication of the entire floodplain was not an appropriate _____. He noted the dedication issue did not affect the proposed development in a land use decision.

MOTION by Council Member Miller seconded by Council Member Larson to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of NC, R-20, and RD and placing same in and establishing same as OI-2(D) and RD(D); (F/J-B, MTC) was approved at 9:04 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor

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Pro Tempore Clement and Council Members Brown, Burnette, Cox, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: Council Members Blyth and Engelhard. Absent: None.

SUBJECT: ZONING CASE P98-59, R. L. HORVATH FOR CHANCELLOR'S RIDGE, BETWEEN NC 751 AND FAYETTEVILLE ROAD NEAR THE CHATHAM COUNTY LINE

Case: P98-59

Applicant: R. L. Horvath for Chancellor's Ridge

Location: 172.34 acres between NC 751 and Fayetteville Road, near the Chatham County line (Tax Maps 501-1-3; 502-3-1; 529-1-24, 25B)

Request: Change in Development Plan: PDR-2.65; (F/J-B)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by making a change in the Development Plan: PDR-2.65; (F/J-B).

Zoning Committee's Recommendation and Vote: Approval - 5-2

City Manager's Recommendation: Denial

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

Proponents

Mr. Ron Horvath, the applicant, spoke in support of the request.

No one spoke in opposition. Mayor Tennyson closed the public hearing.

Council Member Cox asked the administration to state their reason for recommending denial of this request.

Shelia Stains-Ramp, of the City/County Planning Department, stated the staff recommended denial due to increase in the impervious surface that threatens the watershed.

Council Member Cox stated he would be voting against this request.

A motion was made by Council Member Cox to approve the request. This motion was seconded by Council Member Miller.

Council Member Blyth spoke in opposition to the request due to the increase in impervious surface.

MOTION by Council Member Cox seconded by Council Member Miller

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to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by making a change in the Development Plan: PDR-2.65; (F/J-B) was approved at 9:34 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Burnette, Griffin, Langley, Larson and McKissick. Noes: Council Members Blyth, Brown, Cox, Engelhard, Jacobs and Miller. Absent: None.

SUBJECT: ZONING MATTER CASE P98-71, BELLSouth MOBILITY PCS, WEST SIDE OF DAVIS DRIVE SOUTH OF PARK KNOLL DRIVE

Case: P98-71

Applicant: BellSouth Mobility PCS

Location: 1.5 acres on the west side of Davis Drive, south of Park Knoll Drive (Tax Map 584-3-13)

Request: Rezoning from SC(D) (Shopping Center District with a Development Plan) and OI-2(D) (General Office and Institutional with a Development Plan) to I-2(D) (Light Industrial with a Development Plan), Change in Development Plan

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of SC(D) and OI-2(D) and placing same in and establishing same as I-2(D)--Change in Development Plan.

Zoning Committee's Recommendation and Vote: Approval - 4-3

City Manager's Recommendation: Approval

Note: The applicant has requested a deferral of this case.

MOTION by Council Member Larson seconded by Council Member Miller to defer this request to the April 19, 1999 City Council Meeting without additional advertising was approved at 9:35 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

[OTHER MATTERS]

SUBJECT: REPORT FROM THE TAXICAB COMMISSION - January 27, 1999 Meeting (Portion of the Report Continued from the February 15, 1999 City Council Meeting)

To take action on the following recommendation of the Taxicab Commission--pursuant to Section 22-159.10 of the Durham City Code:

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Revocation of Operator's License, Failure to Place Taxicab(s) in Service - P.M. #155 (LaTanya Moore)

Taxicab Inspector's Recommendation: Revoke Operator's License #155 (in accordance with City Code)

Taxicab Commission's Recommendation: Revoke Operator's License #155 (Vote 3-0)

Ms. LaTanya Moore addressed council requesting a 30 day delay on this matter which would enable her to purchase another vehicle to put on the street. She stated if the council chose not to grant the 30 day delay she would like to voluntarily return the permit to the city in order for the record not to show a revocation of permit in the file for P.M. Taxi Company.

A motion was made by Mayor Pro Tempore Clement to defer any requests on revocation of Ms. Moore's operator's license until she comes back with an assurance that she has purchased a vehicle. This motion was seconded by Council Member Burnette.

Discussion was held on the motion offered by Mayor Pro Tempore Clement.

At this time, Mayor Pro Tempore Clement withdrew his motion.

A motion was made by Council Member McKissick to suspend Ms. Moore's operator license for 60 days. This motion was seconded by Council Member Jacobs.

A substitute motion was made by Council Member Larson to approve the Taxicab Commission's recommendation [revoke operator's license #155]. Motion failed due to the lack of a second.

A substitute motion was made by Council Member Burnette to suspend Ms. Moore's operator's license for 30 days. Motion failed due to the lack of a second.

MOTION by Council Member McKissick seconded by Council Member Jacobs to suspend LaTanya Moore's operator's license for 60 days was approved at 10:01 p.m. by the following vote: Ayes: Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Jacobs, Langley and McKissick. Noes: Mayor Tennyson and Council Members Griffin, Larson and Miller. Absent: None.

SUBJECT: DISTRIBUTION (SALE) OF BEER TO THE GENERAL PUBLIC ON THE CIVIC CENTER PLAZA - DURHAM JAYCEES

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Luther Misenheimer, representing the Durham Jaycees, spoke in support of this request.

Shelli Dronsfield, representing the Durham Arts Council, spoke in support of the request.

MOTION by Council Member Larson seconded by Council Member Jacobs to approve a request from the Durham Jaycees to distribute beer to the general public on the Civic Center Plaza as part of the Durham Alive! Concert Series, conducted by Downtown Durham, Inc. and several private sponsors, on April 29, May 27, June 11, June 24, July 29, August 26 and September 17, 1999 from 5:00 p.m. to 7:30 p.m. was approved at 10:25 p.m. by the following vote: Ayes: Mayor Tennyson and Council Members Blyth, Cox, Griffin, Jacobs, Langley, Larson and McKissick. Noes: Mayor Pro Tempore Clement and Council Members Brown, Burnette, Engelhard and Miller. Absent: None.

[ITEM PULLED FROM THE CONSENT AGENDA]

SUBJECT: DURHAM COMMUNITY PREVENTION PARTNERSHIP (DCPP)

Mayor Tennyson noted that Ms. Calina Smith requested not to be heard on this item.

MOTION by Council Member Larson seconded by Council Member Miller to receive a report concerning the continuation of the Durham Community Prevention Partnership, and to approve the recommendation of the City Manager that the City work with Durham County to transfer the responsibility of the DCPD activities to the County under the Mental Health Department and if not successful, City Manager to consider other options for restructuring the program--report to given at the April 8, 1999 Finance Committee Meeting was approved at 10:25 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

[SUPPLEMENTAL AGENDA]

SUBJECT: CITY/COUNTY MERGER

To discuss the City/County Merger.

A motion was made by Council Member Miller to approve the Approach

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To City/County Consolidation outlined by the County Commissioners dated February 22, 1999 with one amendment as follows:

PURPOSE: The committee will be charged with guiding a study to determine the feasibility/advisability (costs and benefits) of consolidation city and county governments in Durham County. The Durham City Council and Durham County Commissioners recommends the committee's work may include but is not limited to the following.

Council Member Blyth seconded the motion made by Council Member Miller.

MOTION by Council Member Miller seconded by Council Member Blyth to approve the County's Approach to City/County Consolidation dated February 22, 1999 as amended was approved at 10:33 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

APPROACH TO CITY/COUNTY CONSOLIDATION

JOINT COMMITTEE: Form a joint City Council and County Commissioners Steering Committee by March 15, 1999 to clarify issues necessary for a merged government. The structure will be a body composed of a fixed number of City Council Members and County Commissioners set and appointed by the respective governing body.

PURPOSE: The committee will be charged with guiding a study to determine the feasibility/advisability (costs and benefits) of consolidating city and county governments in Durham County. The Durham City Council and Durham County Commissioners recommends the committee's work may include but is not limited to the following:

- * Develop a list of questions and issues to be resolved.
- * Develop a communications strategy to obtain public input and keep the public informed. This strategy could include citizens forums, public hearings, focus groups, surveys, a special newsletter, and other outreach techniques.
- * Recommend, for governing body approval, the composition of citizen task forces that will investigate the details of issue areas including: administration/general government; public works; community services and development; health and human services; public protection; taxation and finance; governmental structure. The committee's recommendation for composition of the task force should include broad community representation. Appropriate staff from city and county

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governments and specific outside resource expertise would be made available to the citizens committees.

- * As soon as possible, determine a budget for appropriate committee and task force support, report that to the governing bodies for approval, and select service providers (consultant and/or facilitator) within the budgeted amounts.
- * Access additional resources, as appropriate, to assist the committee's efforts (i.e. the Institute of Government, League of Municipalities, North Carolina Association of County Commissioners, assistance from local universities, and information from consolidated governments in other areas).
- * Submit a report to the governing bodies by December 1, 1999, regarding the feasibility/advisability of merger. The report should include the task force reviews evaluating the costs and benefits of merger including efficiency, effectiveness, equity, accessibility and accountability.
- * Other activities deemed necessary to gather information and guide the process.

After receipt of the joint committee report regarding the feasibility/advisability of consolidation, the Durham City Council and the Durham County Board of Commissioners would determine whether to proceed to create a formal Consolidation Study Commission. If the Commission is formed, it will begin its work by January 15, 2000 with a report, including a proposed Charter, due by May 15, 2000. The Consolidation Study Commission would report on the form of governance and all other issues as called for in Article 20, Chapter 153A of the North Carolina General Statutes regarding consolidated government. With this time frame, a referendum on merger would be possible in November, 2000.

A motion was made by Council Member Miller to appoint the following Council Members to serve on the Joint City/County Merger Steering Committee: Council Members Blyth, Brown, Cox, Engelhard, Miller, Langley and Council Member Burnette as an alternate. This motion was seconded by Council Member Cox.

Mayor Pro Tempore Clement and Council Member McKissick expressed concern with the motion offered by Council Member Miller limiting the membership of the committee.

A substitute motion was made by Council Member McKissick to appoint Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Griffin, Larson and McKissick to serve on the committee along with Council Members Blyth, Brown, Cox, Engelhard, Miller,

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Langley and Council Member Burnette as an alternate. This motion was seconded by Mayor Pro Tempore Clement.

A substitute motion to the substitute was made by Council Member Jacobs to designate six members to serve on the committee through a process. Motion failed due to lack of a second.

Council Member Cox stated he would withdraw his name as a member of the committee to allow one person to serve who desired to participate.

Mayor Pro Tempore Clement noted his past and present interest regarding city/county merger.

A substitute motion to the substitute was made by Council Member Burnette to select six members and an alternate to serve on the merger steering committee to be selected at random. This motion was seconded by Council Member _____.

Discussion was held by council on Council Member Burnette's motion.

Council Member Burnette withdrew her motion.

Council Member McKissick amended his motion to include Council Member Jacobs as a member of the committee.

SUBSTITUTE MOTION by Council Member McKissick seconded by Mayor Pro Tempore Clement to appoint all Council Members, including the Mayor, as members of the Joint City/County Merger Steering Committee **FAILED** at 11:01 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Burnette, Larson and McKissick. Noes: Council Members Blyth, Brown, Cox, Engehard, Griffin, Jacobs, Langley and Miller. Absent: None.

Additional discussion was held by council on the membership of the committee.

Council Member McKissick stated he would like to serve as a member of the merger committee and asked Council Member Miller to amend his motion allowing him to participate.

Council Member Langley requested withdrawal of her name as a member of the merger committee.

Council Member Miller amended his motion adding Council Member McKissick as a member in lieu of Council Member Langley.

MOTION by Council Member Miller seconded by Council Member Cox to

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appoint the following persons to serve on the Joint City/County Merger Steering Committee was approved at 11:14 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Langley, Larson, McKissick and Miller. Noes: Council Member Jacobs. Absent: None.

Mayor Pro Tempore Clement
Council Member Blyth
Council Member Brown
Council Member Engelhard
Council Member McKissick
Council Member Miller
Council Member Burnette (Alternate)

[ITEMS PULLED FROM THE CONSENT AGENDA]

SUBJECT: CONTRACT M99.1 - RIGHT OF WAY MOWING AND LITTER REMOVAL SERVICES - DIXIE LAWN SERVICE, INC.

A motion was made by Council Member Larson to approve the item as printed. This motion was seconded by Mayor Pro Tempore Clement.

SUBSTITUTE MOTION by Council Member Cox seconded by Council Member Brown to hold this item for one cycle **FAILED** at 11:19 p.m. by the following vote: Ayes: Council Members Brown, Burnette, Cox and McKissick. Noes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Engelhard, Griffin, Jacobs, Langley, Larson and Miller. Absent: None.

Council Member Cox raised concern with the contract having no dollar amount assigned to any particular area. Also, Council Member Cox noted that the administration was trying to solve a short term problem with an intermediate solution which could have long term negative affects.

MOTION by Council Member Larson seconded by Mayor Pro Tempore Clement to authorize the City Manager to enter into a three-year contract with Dixie Lawn Service, Inc. in the total amount of \$1,449,005.64 for Contract M99.1, Right of Way Mowing and Litter Removal; and

To authorize the City Manager to make minor changes to the contract such that the contractor's obligations are not lessened and the contract price is not increased was approved at 11:30 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: Council

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Members Brown and Cox. Absent: None.

**SUBJECT: FIREWORKS DISPLAY FOR DUKE UNIVERSITY ALUMNI
ASSOCIATION**

MOTION by Council Member Larson seconded by Council Member Miller to approve a request for the display of fireworks for the Duke University Alumni Association on Saturday, April 17, 1999 between the hours of 10:00 p.m. and 11:00 p.m. at areas designated by the Durham Fire Marshal and to be viewed from an area near or at the corner of Science and Bassett Drives was approved at 11:31 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cox, Griffin, Jacobs, Langley, Larson and McKissick. Noes: Council Members Brown, Engelhard and Miller. Absent: None.

There being no further business to come before the Council, the meeting was adjourned at 11:31 p.m.

D. Ann Gray
Deputy City Clerk

Margaret M. Bowers, CMC
City Clerk